

Subpart B—General Requirements and Exceptions

§ 21.11 General permit requirements.

No person may take, possess, import, export, transport, sell, purchase, barter, or offer for sale, purchase, or barter, any migratory bird, or the parts, nests, or eggs of such bird except as may be permitted under the terms of a valid permit issued pursuant to the provisions of this part and part 13 of this chapter, or as permitted by regulations in this part, or part 20 of this subchapter (the hunting regulations), or part 92 of subchapter G of this chapter (the Alaska subsistence harvest regulations). Birds taken or possessed under this part in “included areas” of Alaska as defined in § 92.5(a) are subject to this part and not to part 92 of subchapter G of this chapter.

[68 FR 43027, July 21, 2003]

§ 21.12 General exceptions to permit requirements.

The following exceptions to the permit requirement are allowed.

(a) Employees of the Department of the Interior authorized to enforce the provisions of the Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 703–711), may, without a permit, take or otherwise acquire, hold in custody, transport, and dispose of migratory birds or their parts, nests, or eggs as necessary in performing their official duties.

(b) State game departments, municipal game farms or parks, and public museums, public zoological parks, accredited institutional members of the American Association of Zoological Parks and Aquariums (AAZPA) and public scientific or educational institutions may acquire by gift or purchase, possess, transport, and by gift or sale dispose of lawfully acquired migratory birds or their progeny, parts, nests, or eggs without a permit: *Provided*, That such birds may be acquired only from persons authorized by this paragraph or by a permit issued pursuant to this part to possess and dispose of such birds, or from Federal or State game authorities by the gift of seized, condemned, or sick or injured birds. Any such birds, acquired without a permit,

and any progeny therefrom may be disposed of only to persons authorized by this paragraph to acquire such birds without a permit. Any person exercising a privilege granted by this paragraph must keep accurate records of such operations showing the species and number of birds acquired, possessed, and disposed of; the names and addresses of the persons from whom such birds were acquired or to whom such birds were donated or sold; and the dates of such transactions. Records shall be maintained or reproducible in English on a calendar year basis and shall be retained for a period of five (5) years following the end of the calendar year covered by the records.

(c) Employees of Federal, State, and local wildlife and land management agencies; employees of Federal, State, and local public health agencies; and laboratories under contract to such agencies may in the course of official business collect, possess, transport, and dispose of sick or dead migratory birds or their parts for analysis to confirm the presence of infectious disease. Nothing in this paragraph authorizes the take of uninjured or healthy birds without prior authorization from the Service. Additionally, nothing in this paragraph authorizes the taking, collection, or possession of migratory birds when circumstances indicate reasonable probability that death, injury, or disability was caused by factors other than infectious disease and/or natural toxins. These factors may include, but are not limited to, oil or chemical contamination, electrocution, shooting, or pesticides. If the cause of death of a bird is determined to be other than natural causes or disease, Service law enforcement officials must be contacted without delay.

(d) Licensed veterinarians are not required to obtain a Federal migratory bird permit to temporarily possess, stabilize, or euthanize sick and injured migratory birds. However, a veterinarian without a migratory bird rehabilitation permit must transfer any such bird to a federally permitted migratory bird rehabilitator within 24 hours after the bird's condition is stabilized, unless the bird is euthanized. If a veterinarian is unable to locate a permitted rehabilitator within that time,

the veterinarian must contact his or her Regional Migratory Bird Permit Office for assistance in locating a permitted migratory bird rehabilitator and/or to obtain authorization to continue to hold the bird. In addition, veterinarians must:

(1) Notify the local U.S. Fish and Wildlife Service Ecological Services Office immediately upon receiving a threatened or endangered migratory bird species. Contact information for Ecological Services offices can be located on the Internet at <http://offices.fws.gov>;

(2) Euthanize migratory birds as required by §21.31(e)(4)(iii) and §21.31(e)(4)(iv), and dispose of dead migratory birds in accordance with §21.31(e)(4)(vi); and

(3) Keep records for 5 years of all migratory birds that die while in their care, including those they euthanize. The records must include: the species of bird, the type of injury, the date of acquisition, the date of death, and whether the bird was euthanized.

[39 FR 1178, Jan. 4, 1974, as amended at 50 FR 8638, Mar. 4, 1985; 54 FR 38151, Sept. 14, 1989; 68 FR 61137, Oct. 27, 2003]

§21.13 Permit exceptions for captive-reared mallard ducks.

Captive-reared and properly marked mallard ducks, alive or dead, or their eggs may be acquired, possessed, sold, traded, donated, transported, and disposed of by any person without a permit, subject to the following conditions, restrictions, and requirements:

(a) Nothing in this section shall be construed to permit the taking of live mallard ducks or their eggs from the wild.

(b) All mallard ducks possessed in captivity, without a permit, shall have been physically marked by at least one of the following methods prior to 6 weeks of age and all such ducks hatched, reared, and retained in captivity thereafter shall be so marked prior to reaching 6 weeks of age.

(1) Removal of the hind toe from the right foot.

(2) Pinioning of a wing: *Provided*, That this method shall be the removal of the metacarpal bones of one wing or a portion of the metacarpal bones

which renders the bird permanently incapable of flight.

(3) Banding of one metatarsus with a seamless metal band.

(4) Tattooing of a readily discernible number or letter or combination thereof on the web of one foot.

(c) When so marked, such live birds may be disposed of to, or acquired from, any person and possessed and transferred in any number at any time or place: *Provided*, That all such birds shall be physically marked prior to sale or disposal regardless of whether or not they have attained 6 weeks of age.

(d) When so marked, such live birds may be killed, in any number, at any time or place, by any means except shooting. Such birds may be killed by shooting only in accordance with all applicable hunting regulations governing the taking of mallard ducks from the wild: *Provided*, That such birds may be killed by shooting, in any number, at any time, within the confines of any premises operated as a shooting preserve under State license, permit, or authorization; or they may be shot, in any number, at any time or place, by any person for bona fide dog training or field trial purposes: *Provided further*, That the provisions:

(1) The hunting regulations (part 20 of this subchapter), with the exception of §20.108 (Nontoxic shot zones), and

(2) The Migratory Bird Hunting Stamp Act (duck stamp requirement) shall not apply to shooting preserve operations as provided for in this paragraph, or to bona fide dog training or field trial operations.

(e) At all times during possession, transportation, and storage until the raw carcasses of such birds are finally processed immediately prior to cooking, smoking, or canning, the marked foot or wing must remain attached to each carcass: *Provided*, That persons, who operate game farms or shooting preserves under a State license, permit, or authorization for such activities, may remove the marked foot or wing when either the number of his State license, permit, or authorization has first been legibly stamped in ink on the back of each carcass and on the container in which each carcass is maintained, or each carcass is identified by